

LDD

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1350
MITCH'S AUTO SERVICE CENTER,
INC.

AND
MITCHELL J. HARTKA AND CAREN
HARTKA, H/W

Plaintiffs,

vs.

FORD MOTOR COMPANY

Defendant.

CIVIL ACTION

NO.

10 3843

FILED

AUG - 1 2010
By M...
Dep. Clerk

NOTICE OF REMOVAL OF DEFENDANT
FORD MOTOR COMPANY

Defendant Ford Motor Company, (hereinafter, "Ford"), by and through its attorneys, hereby removes the above-captioned action, which is presently in the Court of Common Pleas of Philadelphia County, Trial Division - Civil, April Term 2010 No. 4737, pursuant to 28 U.S.C. §1441 et seq. and in support thereof states as follows:

1. This action was commenced by a Writ of Summons filed on April 28, 2010. Ex.

"A", Writ of Summons.

2. Plaintiffs' Complaint was filed in the Court of Common Pleas of Philadelphia County, Pennsylvania, Trial Division - Civil, April Term 2010 No. 4737, June 30, 2010 and alleges strict liability, negligence, breach of warranty, fraud/fraudulent concealment and fraudulent and negligent misrepresentation or omission and loss of consortium against Ford. Ex.

"B", Pls. Comp.

3. This Notice is being filed within thirty days after Defendant received Plaintiffs' Complaint on July 1, 2010, and within one year of the institution of Plaintiffs' suit, in compliance with 28 U.S.C. §1446(b).

4. In the Complaint, Plaintiff Mitch's Auto Service Center, Inc. alleges that it is a Pennsylvania corporation and maintained a principal place of business at 7136 Wissinoming Street, Philadelphia, PA 19135. Ex. "B" at ¶1.

5. The Complaint also alleges that Mitchell J. Hartka and Caren Hartka, husband and wife, reside at 15 Elsa Way, Richboro, PA 18954. Ex. "B" at ¶¶2-3.

6. Defendant Ford Motor Company is a Delaware corporation with a principal place of business located at One the American Road, Dearborn, Michigan 48126. Ex. "B" at ¶4.

7. This action arises out of an alleged vehicle fire at 7136 Wissinoming Street, Philadelphia, PA 19135, where Plaintiffs avers damages to a business, personal financial losses, loss of business and business opportunities, lost business property, costs of repair and in maintaining an alternative, but inadequate, business location as well as other financial losses. Ex. "B" at ¶¶25, 31, 42 and 54.

8. Plaintiff Mitchell J. Hartka alleges he suffers from severe and debilitating emotional trauma including, but not limited to, irritability, nervousness, night sweats, nightmares, insomnia, depression and emotional distress. Ex. "B" at ¶¶ 26, 32, 43 and 55.

9. The Complaint further alleges Plaintiff Caren Hartka, has been deprived of her husband's earnings, comfort, society and other items of consortium, to her loss and damage. Ex. "B" at ¶58.

10. In the Complaint, Plaintiff claims an amount “in excess of \$50,000. Additionally, the *ad damnum* clauses seek compensatory and punitive damages. Accordingly, the amount in controversy meets the requirement of 28 U.S.C. §1332.

11. As the amount in controversy in this case is in excess of \$75,000, and as Plaintiff and Defendant are citizens of different States, this Court may exercise jurisdiction over this lawsuit pursuant to 28 U.S.C. §1332.

12. This action may be removed to this Court by the Defendant pursuant to 28 U.S.C. §1441(a) in that this case was initially brought in a state court within the geographical area of the Eastern District of Pennsylvania, and in that this Court has jurisdiction pursuant to 28 U.S.C. §1332(a).

13. Defendant has given written notice of the filing of this Notice of Removal pursuant to 28 U.S.C. §1446(d), by filing this Notice of Removal with the Court of Common Pleas of Philadelphia County and by giving written notice to counsel for Plaintiffs. A copy of Defendant’s Praeclipe to File Notice of Removal is attached as Exhibit “C”. A copy of Defendant’s Notice to Plaintiff is attached as Exhibit “D”.

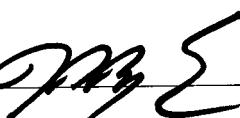
14. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1441(a).

WHEREFORE, Defendants respectfully requests that this action now pending against it in the Court of Common Pleas of Philadelphia County, Trial Division - Civil, April Term 2010 No. 4737, be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

**CAMPBELL CAMPBELL EDWARDS &
CONROY, P.C.**

BY



William J. Conroy, Esquire
C. Scott Toomey, Esquire
J. David Byerly, Esquire
*Attorneys for Defendant,
Ford Motor Company*

Date: August 2, 2010

CAMPBELL CAMPBELL EDWARDS & CONROY P.C.

By: William J. Conroy, Esquire
C. Scott Toomey, Esquire
J. David Byerly, Esquire
Attorney I.D. Nos.: 36433/66529/80714
Chesterbrook Corporate Center
690 Lee Road, Suite 300
Wayne, PA 19087
(610) 964-1900
Attorneys for Defendant,
Ford Motor Company

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Defendant.

: COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY
:
:
: APRIL TERM, 2010
:
: NO. 004734
:
:
:
: JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2010, a copy of the foregoing Praeclipe to File Notice of Removal was mailed first-class, postage prepaid, to counsel for Plaintiff at the following address:

Craig A. Sophin, Esquire
601 Walnut Street
The Curtis Center, Suite 160-W
Philadelphia, PA 19106

CAMPBELL CAMPBELL EDWARDS & CONROY, P.C.

BY:

WJC
William J. Conroy, Esquire
C. Scott Toomey, Esquire
J. David Byerly, Esquire
Attorneys for Defendant,
Ford Motor Company

Date: August 2, 2010